

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 13, the Department of Human Services (DHS) amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments require Home- and Community-Based Services (HCBS) transportation payments to be the same as the payments negotiated by the Medicaid nonemergency medical transportation broker. For those providers that do not have a contracted rate, the rate paid would be the average broker rate paid per trip or per mile for the member’s DHS region.

Current HCBS transportation rates may be paid at a different amount than the nonemergency medical transportation broker. The rates are difficult to determine due to different methodologies within current rules. Rules currently state that the rate paid is the fee schedule or county contract rate. Therefore, this change provides consistency for the provider, the member and the state.

Notice of Intended Action on these amendments was published as **ARC 0887C** in the Iowa Administrative Bulletin on July 24, 2013.

The Department received comments from two respondents on these amendments.

Comment 1: With this proposed rule change, individuals living in a 24-hour HCBS supported community living (SCL) program would not be able to access transportation to a day habilitation program or an employment program during the day since it would be simultaneous with the supported community living program. Individuals living in the community need to use transportation to access community-based services. It is not always feasible for the staff of the 24-hour program to transport everyone all the time. This proposed change is not consistent with the goals of mental health system redesign to increase employment and community integration of individuals with intellectual disabilities. The commenter proposed that subrule 78.41(11) in **ARC 0887C** not be changed.

Department response: A provider may include in the provider’s reimbursement rate the costs of transportation that are directly associated with the provision of SCL services. Transportation is also a stand-alone service in the intellectual disability (ID) and brain injury (BI) waiver programs that provide payment for transporting a member to conduct business errands and essential shopping, to receive medical services, to and from work or day programs, and to reduce social isolation. This is the same criterion for transportation when it is provided as part of the SCL service. The intent of this amendment was to clarify that a provider may not simultaneously bill for SCL services and transportation (the service) when the provider is including the cost of transportation in the SCL rate. Doing so would be considered double-billing Medicaid for the same service. The Department has changed the proposed amendments in Items 6 and 7, and subrules 78.41(11) and 78.43(7) now read as follows:

“78.41(11) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through nonemergency medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip. Transportation may not be reimbursed simultaneously with HCBS intellectual disability waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.”

“78.43(7) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through nonemergency medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip. Transportation may not be reimbursed simultaneously with HCBS brain injury waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.”

Comment 2: The second comment was from the Des Moines Area Regional Transit Authority (DART). For many years, DART and the county have endeavored to ensure the county contract rate (i.e., the current applicable rate for HCBS waiver service providers) is equitable. In order to continually attain this objective, a great deal of information sharing and mutual understanding has been and will continue to be required.

Department response: The Department has no influence on the rates that counties negotiate to pay transportation providers that are transporting non-Medicaid individuals on behalf of the county. The counties may choose to continue to contract with transportation providers using the counties' current methodology of reimbursement; however, a transportation provider may not charge Medicaid members more for transportation than it charges the general public, including county-funded transportation services. Counties will continue to contract with transportation providers as outlined in the counties' regional management plans. The Department anticipates that, by utilizing the nonemergency medical transportation contracted rates to reimburse providers for HCBS waiver transportation services, providers will have a consistent and predictable reimbursement rate based on the negotiated costs of providing the service.

The Council on Human Services adopted these amendments on September 11, 2013.

Pursuant to Iowa Code section 17A.5(2)"b"(1), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments should be made effective October 1, 2013. In 2013 Iowa Acts, Senate File 446, section 7(6), the Legislature provided that the Department may adopt emergency rules for the medical assistance program as necessary to comply with federal requirements.

These amendments do not provide for waiver in specified situations because requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective October 1, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraph **77.33(11)"f"**:

f. Transportation providers contracting with the nonemergency medical transportation contractor.

ITEM 2. Adopt the following **new** paragraph **77.37(24)"g"**:

g. Transportation providers contracting with the nonemergency medical transportation contractor.

ITEM 3. Adopt the following **new** paragraph **77.39(18)"f"**:

f. Transportation providers contracting with the nonemergency medical transportation contractor.

ITEM 4. Adopt the following **new** paragraph **77.41(6)"e"**:

e. Transportation providers contracting with the nonemergency medical transportation contractor.

ITEM 5. Amend subrule 78.37(11) as follows:

78.37(11) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through nonemergency medical transportation, and to reduce social isolation. A unit of service is one mile of transportation; or one one-way trip; ~~or a unit established by an area agency on aging.~~

ITEM 6. Amend subrule 78.41(11) as follows:

78.41(11) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through nonemergency medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation; or one one-way trip; ~~or a unit established by an area agency on aging.~~ Transportation may not be reimbursed simultaneously with HCBS intellectual disability waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.

ITEM 7. Amend subrule 78.43(7) as follows:

78.43(7) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through nonemergency medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation, or one one-way trip, or a unit established by an area agency on aging. Transportation may not be reimbursed simultaneously with HCBS brain injury waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.

ITEM 8. Amend subrule 78.46(5) as follows:

78.46(5) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to receive medical services when not reimbursed through Medicaid as nonemergency medical transportation, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation, or one one-way trip, or a unit established by an area agency on aging.

ITEM 9. Amend subrule **79.1(2)**, provider category “HCBS waiver service providers,” numbered paragraph “11,” as follows:

Provider category	Basis of reimbursement	Upper limit
11. Transportation	Fee schedule	Effective 7/1/13 <u>10/1/13</u> : <u>County contract rate</u> <u>The provider’s nonemergency medical transportation contract rate</u> or, in the absence of a <u>nonemergency medical transportation contract rate</u> , <u>provider’s rate in effect 6/30/13 plus 3%, converted to a mile or one-way trip unit rate</u> <u>the median nonemergency medical transportation contract rate paid per mile or per trip within the member’s DHS region.</u>

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/2/13.